IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 5426 of 1996

Between:

K. Rambabu S/o Sri K. Nagabhushanam
R/o. Miryalaguda in Nalgonda District.

..... PETITIONER

AND

1 The Regional Transport officer,
Nalgonda, Nalgonda District.
2 Sri.V.S.V.V.Prasad Reddy Asst. Motor Vehicles

Inspector,(Dismissed) Regional Transport Authority,

Hyderabad (south zone), (Case against R 2

dismissed for default as per court order dt 4/4/2000

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, or order, or direction

particularly one in the nature of writ of CERTIORARI, by calling for the records from the file of the 1st Respondent in his R.No.708/A2/96 and to quash his demand notice dt,. 28.2.1996 demanding a sum of Rs. 32,939/- from the petitioner in respect of his bus AP 7594 for the quarter ending 31.3.1996 made therein and to grant such other relief or reliefs as this Hon'ble Court may deem fit and just.

Counsel for the Petitioner:MR.T.VENKATA RAMANA

Counsel for the Respondent No.: GP FOR TRANSPORT

The Court made the following :

O R D E R (Per MHSA,J)

Heard learned counsel for respective parties.

2. Keeping in view that the main controversy in the case on hand is covered by the judgment of the Larger Bench of this Court in

L.ROYAL REDDY & OTHERS v. GOVERNMENT OF A.P., only a few relevant facts need to be stated. They are that the petitioner was having a valid town service permit issued to the vehicle No.APV 7594 to ply on the route Shakuntala talkies to Vemulapally. However, as the vehicle was found to be plying as contract carriage, a show cause notice was issued to the petitioner to show cause why tax at the rate of Rs.875/- per seat for 49 seats for quarter ending 31.3.1996 together with compounding fees, should not be collected from him for the alleged irregularities noticed in the vehicle check report. Explanation offered by the petitioner was not found satisfactory and a demand was raised directing the petitioner to pay difference of tax. It is this demand notice dated 28.2.1996 that has been assailed in the instant writ petition.

3. The Larger Bench of this court in L.ROYAL REDDY'S case (1 supra) has considered a similar contention and held that where the conditions of permit are violated, the rate of tax cannot be changed. It was further held that for violation of conditions of permit, the respondent – authorities would be at liberty to take recourse to law under the Motor Vehicles Act.

4. Respectfully following the judgment of the Larger Bench, the demand notice is liable to be set aside.

5. Accordingly writ petition is allowed, setting aside the impugned demand notice dated 28.2.1996, with liberty however to the respondent – Department to proceed against the petitioner for the alleged violation of conditions of permit, if it so advised.

6. In the facts and circumstances of this case, there shall be no order as to costs.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

AVS

DATE:28.01.2005

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday 28th day of January, two thousand and five.

Registrar

To

1 The Regional Transport officer,
Nalgonda, Nalgonda District.
2 TheRegional Transport Authority, Hyderabad (south zone),

3. Two C.Cs. to G.P. for Transport, A.P. High Court,

Buildings (OUT).

4. Two C.D. copies.